

Message Text

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PAGE 01 MADRID 04633 030612Z

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SUBJ: STATUS OF PROCES NEGOTIATIONS WITH SPAIN

1. SUMMARY: INITIAL SOFA DISCUSSIONS WITH GOS ON JULY 1, INDICATE THAT SPANISH DESIRE TO REVISE A NUMBER OF PROVISIONS OF 1970 AGREEMENT IN IMPLEMENTATION AND PROCEDURAL ANNEXES SIMULTANEOUSLY WITH BASE NEGOTIATIONS, AND TO COMPLETE SOME UNFINISHED WORK FROM 1970. THESE CENTER ON TWO PRINCIPAL SUBJECT AREAS - CRIMINAL JURISDICTION AND CLAIMS, AND FISCAL MATTERS STILL COVERED BY 1953 AGREEMENTS AS CARRIED OVER IN 1970 - ALTHOUGH SEVERAL OTHER SUBJECTS WERE ALSO MENTIONED SUCH AS MILITARY TOURISTS, LABOR MATTERS, AND MUNITIONS STORAGE. SPANISH PROMISED TO PROVIDE DRAFT PROPOSALS, BUT U.S. DELEGATION BELIEVES SOME OF THEIR CONCERNS CAN BE MET THROUGH FIRST-HAND DISCUSSIONS WITH REPS FROM INTERESTED SPANISH MINISTRIES

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PAGE 02 MADRID 04633 030612Z

IN FUTURE SOFA NEGOTIATING SESSIONS. END SUMMARY.

2. SPANISH SIDE, HEADED BY PERINAT OF FONMIN, COMPRISED ZAVALA, CHIEF NORTH AMERICAN AFFAIRS, FONMIN; LT. COL. OLIVER, AIR FORCE; LT. COL. LOPEZ CEDIEL, ARMY; LT. COL. DURET, NAVY; AND PIERO OF FINANCE MINISTRY. U.S. TEAM CONSISTED OF BARRINGER, OSD/ISA/FMRA; SMALL, L/EUR; AND LT. COL. MOWERY, JUSMG SJA. FOLLOWING INTRODUCTORY REMARKS, DURET INDICATED PRIMARY SPANISH DESIRES WERE TO REVISE CRIMINAL JURISDICTION PROVISIONS ALONG LINES OF MULTILATERAL NATO SOFA OF 1951; AND TO REPLACE FISCAL AND CUSTOMS PROVISIONS OF 1953 AGREEMENTS AS CARRIED OVER IN 1970 WITHOUT CHANGE AT THAT TIME. HE AND OTHER GOS REPS IDENTIFIED FOLLOWING SPECIFIC PROVISIONS OF 1970 AGREEMENT IN IMPLEMENTATION WHICH SPANISH DEISRED TO CHANGE;

- A. DEFINITIONS, PARTICULARLY DEPENDENTS.
- B. JURISDICTIONAL STATUS (WAIVERS, OFFICIAL DUTY CERTIFICATIONS, AND CUSTODY).
- C. EXEMPTIONS FROM SPANISH JURISDICTION IN RESPECT TO COURTS-MARTIAL, FOLLOWING OFFICIAL DUTY DETERMINATIONS, AND RESPECTING MILITARY TOURISTS.
- D. FOREIGN CLAIMS COMMISSION HANDLING OF NON-DUTY CLAIMS.
- E. ABSOLUTE LIABILITY FOR DAMAGE ARISING FROM A NUCLEAR ACCIDENT.
- F. LABOR QUESTIONS (SEC III, ART V, PARAS 2 & 3).
- G. LABOR POLICIES OF U.S. SUBCONTRACTORS.
- H. PROCEDURAL ANNEXES AFFECTED BY THE FOREGOING (II, III, AND IV), COVERED BY THE 1953 FISCAL PROVISIONS, OR OF "MILITARY SIGNIFICANCE" (I, VII, VIII, IX, X, XI).
- I. UNFINISHED PROCEDURAL ANNEX ON TRANSPORTATION AND STORAGE OF MUNITIONS AND MILITARY EXPLOSIVES.
- J. FACILITIES AND CONSTRUCTION PROCEDURES.
- K. USE OF DUTY-FREE IMPORTED GOODS IN MILITARY EXHANNGES WHEN SUCH GOODS ARE NOW AVAILABLE FROM SPANISH ECONOMY AND COULD BE OBTAINED FREE OF LOCAL TAXES.

3. U.S. REPS URGED THAT TEXTUAL MODIFICATION BE KEPT TO MINIMUM, EMPHASIZING COMPLEXITY AND INTERRELATIONSHIP OF AGREEMENT IN IMPLEMENTATION AND ITS PROCEDURAL ANNEXES TAKEN AS A WHOLE. U.S. ALSO MADE THESE SPECIFIC POINTS:
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PAGE 03 MADRID 04633 030612Z

A. STATUS OF U.S. FORCES IN EACH NATO COUNTRY IS GOVERNED BY BILATERAL ARRANGEMENTS SUPPLEMENTING NATO SOFA, WITH RESULT THAT ALL ARE ESSENTIALLY SIMILAR TO PRESENT SPANISH CRIMINAL JURISDICTION PROVISIONS. IN SUPPORT THEROF, UNDERTOOK TO PRVIDE SPANISH WITH COPIES OF THOSE APPLICABLE TO FRG (WHICH DURET DISCOUNTED AS A FORMERLY OCCUPIED COUNTRY), NETHERLANDS AND UK. DURET EXPLAINED PRIVATELY THAT SPANISH

DESIRED NATO FORMULA IN ORDER TO MAKE A SMOOTH TRANSITION WHEN NATO WAS READY TO ACCEPT SPAIN AS A MEMBER.

B. SEVERAL OF POINTS CITED BY GOS (E.G., CUSTODY AND NON-DUTY CLAIMS) SEEMED TO BE A QUESTION OF PRACTICAL IMPLEMENTATION RATHER THAN TEXTUAL MODIFICATION. CUSTODY HAD BEEN A PROBLEM UNTIL THIS YEAR, PARTICULARLY IN VIEW OF SLOW SPANISH TRIALS, A POINT WHICH PERINAT CONCEDED. HOWEVER, WE ARE NOW RESTRICTING ACCUSED PERSONNEL TO THE BASES, AND SPANISH ARE TRYING THEM MORE SPEEDILY, WITH RESULTANT DROP IN NUMBERS OF U.S. SERVICE PERSONNEL ON ADMINISTRATIVE HOLD. RE NON-DUTY CLAIMS, OLIVER SIMPLY ASSERTED SYSTEM WAS NOT WORKING WELL, BUT WAS NOT ABLE TO IDENTIFY PRECISELY WHERE AND HOW IT FAILED TO FUNCTION.

C. SPANISH JOINT COMMITTEE, UNLIKE THOSE IN MANY OTHER HOST COUNTRIES, SEEMED TO BE PITCHED AT TOO HIGH A LEVEL FOR RESOLVING SUCH PROBLEMS AS THESE, WHICH ARE BEST HANDLED THROUGH DIRECT PARTICIPATION OF REPS OF INTERESTED HOST COUNTRY CIVILIAN MINISTRIES. THE NEW INSTITUTIONAL ARRANGEMENTS WHICH U.S. HAD IN MIND ENVISAGED ACTIVE SUBCOMMITTEES TO COVER SUCH SUBJECTS AS LEGAL (CRIMINAL JURISDICTION AND CLAIMS).

D. ESTABLISHMENT OF MILITARY EXCHANGES IS NOT DICTATED BY STATE OF LOCAL ECONOMY, BUT TO PROVIDE A READY AND CONVENIENT OUTLET FOR USE OF SERVICE PERSONNEL. SALE OF LOCALLY-PRODUCED GOODS IS ENCOURAGED. U.S. WOULD OF COURSE WISH TO PREVENT ANY ABUSE OF THIS PRIVILEGE, BUT CONTINUED DUTY AND TAX-FREE OPERATION OF EXCHANGES IS AN IMPORTANT QUESTION OF PRINCIPLE FOR U.S. FORCES.

4. PERINAT NOTED THAT OPENING OF SOFA DISCUSSIONS, LIKE THOSE ON NON-MILITARY ASPECTS, WAS A GOOD INDICATION LIMITED OFFICIAL USE

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PAGE 04 MADRID 04633 030612Z

THAT BOTH SIDES ANTICIPATED A FAVORABLE OUTCOME OF BASE NEGOTIATIONS. HE WONDERED WHETHER IT WOULD BE POSSIBLE TO GO AHEAD BEFORE WE KNEW WHAT THE MAIN AGREEMENT WOULD LOOK LIKE. U.S. REPS INDICATED THAT SHOULD NOT BE A PROBLEM, PROVIDED IT IS BORNE IN MIND THAT CHANGES MIGHT LATER BE REQUIRED TO CONFORM PRESENT REFERENCES TO JOINT COMMITTEE WITH WHATEVER ORGANIZATION MIGHT EMERGE FROM THE OVERALL NEGOTIATIONS, AND THAT EACH PROCEDURE IS CAREFULLY CONSIDERED IN LIGHT OF EXPERIENCE OVER LAST FIVE YEARS.

5. IN RESPONSE TO SPANISH INQUIRY, U.S. TEAM SAID THAT FISCAL AND CUSTOMS COULD BE HANDLED BY SAME WORKING GROUP AS OTHER SOFA QUESTIONS. THE TAX RELIEF AGREEMENT OF 1953, HOWEVER, WOULD PROBABLY INVOLVE DIFFERENT PERSONNEL ON U.S. SIDE AND SHOULD THEREFORE BE TREATED SEPARATELY.

6. PERINAT INDICATED IT WAS GOS DESIRE TO HOLD ALL SOFA DISCUSSIONS IN MADRID. U.S. REPS STATED IT WAS U.S. DESIRE TO ROTATE THEM BETWEEN CAPITALS ON SAME BASIS AND AT SAME TIME AS MAIN NEGOTIATIONS, AND PROPOSED THAT THIS MATTER BE SETTLED BY CHIEF NEGOTIATIONS. GOS UNDERTOOK TO PROVIDE U.S. TEAM SOME DRAFTS BEFORE DEPARTURE, AND OTHERS THROUGH JUSMG. U.S. REPS URGED THAT THEY DISCUSS WITH JUSMG ANY PROBLEMS THEY HAD OPERATING UNDER PRESENT ARRANGEMENT, IN EFFORT TO CLEAR AWAY AS MUCH AS POSSIBLE WITHOUT TEXTUAL CHANGES. STABLER

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